

Office of the Presiding Officer
Military Commission

September 19, 2005

This document has been approved by both the Presiding Officer as a Presiding Officer Memorandum, and by the Chief Clerk for Military Commissions in the form he deems appropriate.

SUBJECT: Presiding Officers Memorandum (POM) # 5-1 - Spectators at Military Commissions

This POM supersedes POM # 5 dated 2 Aug 2004.

1. Commission Law provides for open Commission proceedings except when the Presiding Officer determines otherwise. Commission Law also charges the Presiding Officer to maintain the decorum and dignity of all Commission proceedings.
2. The enclosed document, "Decorum for Spectators Attending Military Commissions," shall be in force whenever the Commission holds proceedings open to spectators. The enclosure may be used by bailiffs, security personnel, those with Public Affairs responsibilities, and other Commission personnel to inform spectators and potential spectators of the conduct and attire expected.
3. There are other rules that pertain to media personnel that have been prepared and disseminated by Public Affairs representatives. The enclosure does not limit or change those rules.
4. In conjunction with the Joint Task Force Guantanamo Bay, Office of Military Commissions, the responsible Public Affairs Office, security personnel, the Chief Prosecutor, the Chief Defense Counsel, and the Assistant to the Presiding Officer, the Chief Clerk for Military Commissions (CCMC) will be responsible for preparing and issuing spectator seating charts. To the extent possible, the CCMC will allocate specific areas in the courtroom where different persons and entitles may sit, and issue passes to designated personnel who may in turn issue the passes to spectators. The Assistant to the Presiding Officer will assist the CCMC as needed in working with in-court security personnel to resolve spectator issues.

Approved by:

Peter E. Brownback III
COL, JA, USA
Presiding Officer

M. Harvey
Chief Clerk of Military Commissions

1 Enclosure

Decorum for Spectators Attending Military Commissions (Enclosure to POM 5-1)

The decorum and dignity to be observed by all at the proceedings of this Military Commission will be the same as that observed in military and federal courts of the United States.

Spectators, including members of the media, are encouraged to attend all open Commission proceedings. The proceedings may be closed by the Presiding Officer for security or other reasons.

The following rules apply to all persons, to include spectators, observers, and trial participants, in the courtroom. Failure to follow these rules may result in being denied access to the courtroom, and could result in a charge of contempt of court and expulsion from commission-related activities at Guantanamo Bay, Cuba. Nothing in this POM, however, prohibits properly appointed JTF security forces from bringing into the courtroom those items, or that equipment, needed in the official performance of their duties as authorized by security plans approved by the Commanding Officer, JTF Guantanamo Bay.

a. All military commission spectators must wear appropriate attire. Generally, casual business attire is appropriate for civilians. Examples of acceptable casual business attire include: long-pants, knee-length skirts, and collared shirts with sleeves. Inappropriate attire would include, but is not limited to, the following: shorts, sleeveless shirts (tank tops, halter tops, etc.), denim jeans, T-shirts, mini skirts, and any accessories or other attire with political slogans. Individuals wearing inappropriate attire will not be permitted to observe courtroom proceedings in the courtroom.

b. All persons and all items entering or present in the courtroom are subject to inspection at any time for contraband or items that are, or could be used as, a weapon or that could pose a security risk.

c. No distractions are permitted during court sessions to include, but not limited to: talking, eating, drinking, chewing gum, standing and stretching, sleeping, using tobacco products, or other disruptions. Due to the hot and humid environment in Guantanamo Bay, clear bottled water with a re-closable lid will be permitted in the courtroom and may be consumed therein. No other beverages or food are permitted in the courtroom while commissions are in session.

d. Spectators are not permitted to interact with trial participants either during sessions or breaks in the proceedings. Trial participants include: the Presiding Officer, panel members, prosecutors, defense counsel, the accused, witnesses, guards, court reporters, translators, and other personnel assisting in the conduct of military commissions. Spectators are also expected to respect the privacy of other spectators during trial recesses and not press for unsolicited interactions.

e. Sketching or artistic renditions in the courtroom while court is in session are not allowed except for that pool sketch artist as arranged through the Public Affairs Office.

f. It is improper for anyone to visibly or audibly display approval or disapproval with testimony, rulings, counsel, witnesses, or the procedures of the Commission during the proceedings. For the same reason, signs, placards, leaflets, brochures, clothing, or similar items that could convey a message about the proceedings are also not allowed in the courtroom or in the courtroom's vicinity.

g. As is customary in court proceedings, spectators will rise when the bailiff announces "All rise."

h. The following items may not be present or brought into the courtroom during any session:

1. Computers, laptops, PDIs, PDAs, pagers, cell phones, tape/CD/ MP3 players, audio recorders, video recorders, cameras, and any and all other types of electronic or battery-operated devices. Not only can these devices be distracting to others in the courtroom, but they pose a substantial security risk. Counsel and their trial assistants, court reporters, and the Closed Circuit TV operator may have computers. The court reporter, the Closed Circuit TV operator and Commission translators may have cameras and audio recorders to be used in the performance of their official duties.

2. Weapons or items that can be used as a weapon to include firearms, knives, explosives of any kind, staplers, letter openers, scissors, and the like.

i. Spectators may bring the following into the courtroom:

1. Legal or writing pads (long or short) with or without pocket covers or portfolios. (Ring binders of any size are not permitted.)

2. Manila folders containing papers.

3. Cardboard accordion folders containing papers.

4. Plastic Velcro-type binders containing bound papers or documents.

5. Pens, pencils, and highlighters.

6. Purses not to exceed 5" X 8" X 3" in size, with or without a carrying strap, containing personal items.

j. Entering and exiting the courtroom will be only through the south entrance. Leaving the courtroom once a session has begun will be limited to extreme emergencies, and every attempt should be made to take comfort breaks during court recesses.

k. Members of the media are reminded they have agreed to certain rules established by Public Affairs representatives.

I. Properly-badged Commissions staff personnel participating in a session of the Commission (counsel, translators, paralegals, reporters, and others designated by the JTF Commander, the Assistant, the Presiding Officer, or the Chief Clerk for Military Commissions) will abide by the above guidance with the following exceptions:

1. Papers, documents, exhibits, file folders, file boxes, and other items necessary to presenting or conducting the case may be brought into the courtroom in any container so long as the container or item does not present a security risk as determined by the Assistant in consultation with JTF security personnel. These items are subject to inspection. When inspecting items brought into the courtroom by counsel for the Prosecution or Defense to include their trial assistants, care will be taken to avoid reading or disclosing attorney-client privileged information.

2. Items that are necessary for conducting the trial but might be used as a weapon (scissors, staplers, rulers or the like) will not be brought into the courtroom except as approved *in advance* by the Assistant in consultation with JTF security personnel.

3. Properly-badged Commissions personnel may use the north entrance and enter and leave during recesses. When operationally necessary, and when done in a manner that will not disturb the proceedings, properly-badged Commissions personnel may enter and leave through the north entrance while the Commission is in session.

Commission officials know that spectators appreciate the need for security in any public building, and we ask that you cooperate with security personnel when they screen spectators, and their property.

BY DIRECTION OF THE PRESIDING OFFICER, MILITARY COMMISSION